IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH

S.B. Civil Writ Petition No.6067/02
Durga Lal Sharma
Vs.
The Bundi Central Co-operative Bank Ltd. & Ors.

13.03.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri P.S. Sharma for petitioner.
Shri B.C. Chirania for respondents.

Heard the learned counsel for the parties.

The petitioner has filed this writ petition with the grievance that even though he was sanctioned the loan of Rs.2,30,000/- for purchase of a mini truck by the respondents under the NABARD scheme, the respondents are charging interest at a very high rate in quarterly installments. In case of default in the

payment of installment, panel interest at the rate of 2% was charged. The rate of interest was also excessively charged at 15%. The bank was insisting upon payment of surcharge as well as additional panel interest. Even though the petitioner has made payment of Rs.2,08,000/- in cash to the respondent bank, the bank still proceeded to auction the truck of the petitioner and realized an amount of Rs.1,31,000/- from such auction. Thus, in total a sum of Rs.3,39,000 has already been recovered by the Bank as against the total sanctioned loan of Rs.2,24,000/-. The bank is now still demanding from the petitioner an enormous sum of Rs.4,31,276/- which has escalated so such only because the Bank is charging interest at the awesome rate of 23% per

annum. Shri P.S. Sharma, the learned counsel for the petitioner argued that this being a loan under the NABARD scheme, the respondents were required to charge interest at yearly rest and not to charge panel interest particularly when the petitioner had been making the payment of the quarterly installments regularly. He invited my attention to the representation submitted by the petitioner to the Bank for one time settlement of his dues under the scheme. One such representation was made by the petitioner vide Annexure 13 dated 20.3.2002. According to Shri P.S. Sharma the respondent have not considered his request even though the scheme under which the said representation was made came to expire on 31.3.2002. Thereafter

also such similar schemes were also prevalent with them from time to time, one of which was promulgated by notification of the bank dated 5.7.2003 which was valid upto 30.6.2005 and recently another scheme which was valid upto 31.12.2006. According to learned counsel, the petitioner's case was required to be considered in such schemes and disposed of in terms of the instructions issued by the Reserve Bank of India and the Apex Bank from time to time.

On the other hand, Shri B.C. Chirania, the learned counsel for the respondents contested the writ petition and argued that the petitioner had been making default in payment of the quarterly installments of Rs.10,995/-.

The Bank proceeded to take action against the petitioner when he failed to make payment in time. It was therefore the notices were issued to him on 29.3.1993, 21.11.1995, 27.11.1996, 22.3.2000 and 7.4.2000. It was only thereafter that bank proceeded to seize the transport vehicle and put the same to auction in the month of June, 2000. Shri Chirania further argued that the Bank in compliance of the directions issued by this Court informed the petitioner that he was required to pay to the Bank a sum of Rs.4,09,628/- as on 30.3.2002 and if he was willing, he should personally contact the Branch Manager, Bundi to avail the benefit of `One time Settlement Scheme' by depositing required amount. The scheme, according to him, was valid

upto 20.6.2002. The petitioner having not acted in spite of having been requested to do so, could not be extended the benefits thereof. Although, Shri Chirania did not deny that such similar schemes were available with the Bank even during subsequent periods but he submits that to consider the case of the petitioner, the petitioner should have filed the appropriate application. Since the petitioner did not make any such application, the case of the petitioner could not be considered in those schemes either. He argued that the interest was charged as per the terms of the agreement between the parties and accordingly the bank was free to charge the interest not only at the normal rate but also panel interest and surcharge in the event of

the petitioner making default in payment of the due installments.

Having heard the learned counsel for the parties and perused the material on record I find that this was a case in which the petitioner was disbursed the loan of Rs.2,30,000/- for purchase of a small transport vehicle under the scheme propounded by NABARD. There are number of instructions of Reserve Bank of India which deal with the loans, repayment of which is overdue for a long time. The Banks have been floating `one time settlement scheme' in this connection. Even though the petitioner applied in terms of the direction of this Court to the respondent Bank, but the respondents have failed to consider his application for one time settlement. All that appears

from the communication dated 14.5.2002 is that petitioner was informed that he was required to pay Rs.4,09,428/- as on 31.3.2002, therefore, he should deposit such amount under the `one time settlement scheme' and avail of this benefit. If the entire amount was required to be paid by the petitioner under the said scheme, that in fact amounted to giving no benefit under the settlement scheme. Even though it remains a fact that the petitioner did not apply for one time settlement under the subsequent scheme but then the respondents have not come out with a case that in accordance with the schemes and guide lines of the Reserve Bank of India, the Bank did inform the petitioner about the settlement scheme. The respondents

seek to justify their communication dated 14.5.2002 by stating that the petitioner should have contacted the Branch Manager, Bundi to avail the benefit of the scheme. Such an explanation cannot be justified in the light of the specific direction of this Court pursuant to which the Bank informed the petitioner to apply for one time settlement and when the petitioner had applied, they refused to consider the same benefit. In the facts of the case, therefore, the respondents are directed to consider the request of the petitioner for one time settlement in accordance with the scheme lastly renewed upto 31.12.1996 and for that purpose the application of the petitioner as originally made, shall be treated as the basis for consideration of his case

provided, the petitioner in accordance with the terms of the said scheme, deposits the requisite initial amount along with the application and copy of this judgment within four weeks from today. If any such application together with requisite fee is made by the petitioner to the respondents, the respondents are directed to consider and decide the same as expeditiously as possible.

With these observations, the writ petition is disposed of.

(Mohammad Rafiq),J.

Rs/-